

REMARKS

Claims 1-3 and 31 have been cancelled, claims 4, 6-7, 9-11, 15-16, and 29-30 have been amended, and claims 32-34 have been added. Accordingly, claims 4-30 and 32-34 remain pending.

The Examiner has noted that the Oath or Declaration remains defective. The Applicants submitted a Revised Declaration on January 15, 2005, thus correcting the defective Oath or Declaration. Should any issues remain with respect to the Declaration, the Examiner is kindly requested to bring it to the Applicants' attention.

The Examiner rejected claims 4, 6-20 and 31 under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent 5,790,536 (*Mahany*), in view of U.S. Patent 6,377,608 B1 (*Zyren*). Claim 4, among other things, specifies that the first-tier base station communicates to the combination unit one or more discrete number frequency channels that may be utilized by the combination unit to communicate with the wireless device. The Examiner acknowledges that *Mahany* does not teach this claimed feature, but asserts that it is supposedly taught by *Zyren*. The Examiner argues that because *Zyren* discloses that the base station operates in 120 channels, the base station has "determined the rest of the frequencies for the wireless device and combination unit to use." Office Action, page 3. The Applicants respectfully disagree with the Examiner's assertion that the claimed feature is taught by *Zyren*. Even if *Zyren* discloses, as the Examiner contends, that the base station operates in 120 channels, *Zyren* does not teach that the base station communicates to the combination unit one or more discrete number frequency channels that may be utilized by the combination unit to communicate with the wireless device,

as called for by claim 4. Like *Zyren*, *Mahany* also fails to teach this claimed feature. Accordingly, for this reason alone, claim 4 and its dependent claims are allowable.

With respect to independent claim 7, the Examiner argues that *Mahany* and *Zyren* teach all of the features recited therein. See Office Action, page 5. The Applicants respectfully disagree. Claim 7, in part, calls for (1) coordinating between a device using the second communication protocol and a transmitting device transmitting via the first communication protocol to determine one or more discrete number of frequency channels that will not be used by the first communications protocol, and (2) transmitting via the second communications protocol using one or more discrete number of frequency channels that are not used by the first communications protocol. According to the Examiner, these recited features are taught by *Zyren*. Because *Zyren* teaches that the base station operates in 120 channels, the base station, the Examiner argues, has “determined the rest of the frequencies for the wireless device and combination unit to use.” *Id.* The Applicants respectfully disagree with the Examiner’s assertion. At best, the cited passage discloses that the base station operates in 120 channels. Thus, contrary to the Examiner’s assertion, *Zyren* does not teach or even suggest coordinating between a device using the second communication protocol and a transmitting device transmitting via the first communication protocol to determine one or more discrete number of frequency channels that will not be used by the first communications protocol. Moreover, claim 7 calls for “transmitting via the second communications protocol using the one or more discrete number of frequency channels that are not used by the first communications protocol.” [emphasis added]. The Examiner does not even attempt to identify in *Zyren* a device that utilizes a second communications protocol. Thus, the Applicants assume that the Examiner relies only

on *Mahany* to supposedly show a system in which a first and second communication protocols are employed. However, in *Mahany*, there is no teaching or suggestion that the transmission via the second communications protocol occurs using the one or more discrete number of frequency channels that are not used by the first communications protocol. To the contrary, *Mahany* expressly acknowledges that devices on the peripheral LAN are likely to encounter interference, thus indicating there is no coordination with the device using the first communications protocol. See *Mahany*, col. 41, lines 2-7. Accordingly, for at least the aforementioned reasons, claim 7 and its dependent claims are allowable.

Claim 15 is allowable over the cited references because *Mahany* and *Zyren* (when considered alone or in combination) at least do not teach or suggest the first-tier base station and the second-tier base station coordinate to determine the one or more discrete number of frequency channels that will not be used by the first communications protocol. Thus, for at least this reason, claim 15 and its dependent claims are allowable.

The newly added claims are allowable for the features recited therein.

In light of the arguments presented above, Applicants respectfully assert that the pending claims are allowable. Accordingly, a Notice of Allowance is respectfully solicited.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Houston, Texas telephone number (713) 934-4060 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,

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